

my view, of the health care system in America, something a majority of Americans have voiced their deep concern about—employer mandates, and biologic drug regulation.

So here we are supposedly moving forward, and the administration spokesperson in the last couple of days said the bill that is being considered by the HELP Committee is not, “the administration’s bill.” What is the administration’s bill? Where is the administration’s bill? We have no idea what the provisions I just mentioned will cost or whether they will create jobs and whether the American people will be called upon to pay an increase in taxes and, if so, who will pay them. I do not know how you move forward with legislation that, frankly, you do not know how you are going to pay for.

How can the President and the majority expect the American people to take them seriously when they talk of wanting a bipartisan product that addresses their needs when, at the same time, majority members and their staff have written the entire bill without any input from this side of the aisle? I assure you, the American people would have much more confidence in this effort if both Republicans and Democrats were working together on health care reform. Instead of changing Washington, it sounds an awful lot like a one-sided effort to jam a bill through before the American people understand what is in it.

This morning, there is some very interesting data. According to a CBS/New York Times survey, the President holds a 57-percent approval rating, which is very good. On health care, his approval rating is 44 percent. That is way down, and it is down because the American people are beginning to figure out that we are going to have a proposal that will end in government control of American’s health care, it will squeeze out competition, and it will be incredibly expensive. As I mentioned, the CBO preliminary estimate is \$1 trillion, but insures only one-third of the American people, and it leaves 32 million people without health insurance.

So we hear that the Finance Committee, as I mentioned, is in such disarray over the costs and policies in their bill that they have postponed their consideration until after the Fourth of July break. They obviously don’t have their policies together enough to move forward. It appears to me, from my service on the Health Committee, that it does not either.

I think the only reasonable thing to do is to go back to the drawing board. Let’s go back to the beginning. Let’s sit down together and work out a reasonable proposal that we can go to the American people with that says we will provide them with affordable and available health care. Every American knows the costs are out of control, everybody knows it needs to be reformed. But we will do so without a government takeover of America’s health care system.

Madam President, I yield the floor.

Mr. HARKIN. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. HARKIN. Madam President, on behalf of the majority leader, I yield back whatever time remains in morning business for this side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Is the Republican time also yielded back?

Mr. BROWNBACK. Madam President, on behalf of the Republican leader, I yield back the time on our side.

The ACTING PRESIDENT pro tempore. Morning business is closed.

APOLOGIZING FOR THE ENSLAVEMENT AND RACIAL SEGREGATION OF AFRICAN AMERICANS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. Con. Res. 26, which the clerk will report.

Mr. HARKIN. Madam President, I ask unanimous consent that the clerk read the entire text of the resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 26), apologizing for the enslavement and racial segregation of African Americans.

Whereas, during the history of the Nation, the United States has grown into a symbol of democracy and freedom around the world;

Whereas the legacy of African Americans is interwoven with the very fabric of the democracy and freedom of the United States;

Whereas millions of Africans and their descendants were enslaved in the United States and the 13 American colonies from 1619 through 1865;

Whereas Africans forced into slavery were brutalized, humiliated, dehumanized, and subjected to the indignity of being stripped of their names and heritage;

Whereas many enslaved families were torn apart after family members were sold separately;

Whereas the system of slavery and the visceral racism against people of African descent upon which it depended became enmeshed in the social fabric of the United States;

Whereas slavery was not officially abolished until the ratification of the 13th amendment to the Constitution of the United States in 1865, after the end of the Civil War;

Whereas after emancipation from 246 years of slavery, African Americans soon saw the fleeting political, social, and economic gains

they made during Reconstruction eviscerated by virulent racism, lynchings, disenfranchisement, Black Codes, and racial segregation laws that imposed a rigid system of officially sanctioned racial segregation in virtually all areas of life;

Whereas the system of de jure racial segregation known as “Jim Crow”, which arose in certain parts of the United States after the Civil War to create separate and unequal societies for Whites and African Americans, was a direct result of the racism against people of African descent that was engendered by slavery;

Whereas the system of Jim Crow laws officially existed until the 1960’s—a century after the official end of slavery in the United States—until Congress took action to end it, but the vestiges of Jim Crow continue to this day;

Whereas African Americans continue to suffer from the consequences of slavery and Jim Crow laws—long after both systems were formally abolished—through enormous damage and loss, both tangible and intangible, including the loss of human dignity and liberty;

Whereas the story of the enslavement and de jure segregation of African Americans and the dehumanizing atrocities committed against them should not be purged from or minimized in the telling of the history of the United States;

Whereas those African Americans who suffered under slavery and Jim Crow laws, and their descendants, exemplify the strength of the human character and provide a model of courage, commitment, and perseverance;

Whereas, on July 8, 2003, during a trip to Goree Island, Senegal, a former slave port, President George W. Bush acknowledged the continuing legacy of slavery in life in the United States and the need to confront that legacy, when he stated that slavery “was . . . one of the greatest crimes of history . . . The racial bigotry fed by slavery did not end with slavery or with segregation. And many of the issues that still trouble America have roots in the bitter experience of other times. But however long the journey, our destiny is set: liberty and justice for all.”;

Whereas President Bill Clinton also acknowledged the deep-seated problems caused by the continuing legacy of racism against African Americans that began with slavery, when he initiated a national dialogue about race;

Whereas an apology for centuries of brutal dehumanization and injustices cannot erase the past, but confession of the wrongs committed and a formal apology to African Americans will help bind the wounds of the Nation that are rooted in slavery and can speed racial healing and reconciliation and help the people of the United States understand the past and honor the history of all people of the United States;

Whereas the legislatures of the Commonwealth of Virginia and the States of Alabama, Florida, Maryland, and North Carolina have taken the lead in adopting resolutions officially expressing appropriate remorse for slavery, and other State legislatures are considering similar resolutions; and

Whereas it is important for the people of the United States, who legally recognized slavery through the Constitution and the laws of the United States, to make a formal apology for slavery and for its successor, Jim Crow, so they can move forward and seek reconciliation, justice, and harmony for all people of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring). That the sense of the Congress is the following:

(1) APOLOGY FOR THE ENSLAVEMENT AND SEGREGATION OF AFRICAN-AMERICANS.—The Congress—

(A) acknowledges the fundamental injustice, cruelty, brutality, and inhumanity of slavery and Jim Crow laws;

(B) apologizes to African Americans on behalf of the people of the United States, for the wrongs committed against them and their ancestors who suffered under slavery and Jim Crow laws; and

(C) expresses its recommitment to the principle that all people are created equal and endowed with inalienable rights to life, liberty, and the pursuit of happiness, and calls on all people of the United States to work toward eliminating racial prejudices, injustices, and discrimination from our society.

(2) **DISCLAIMER.**—Nothing in this resolution—

(A) authorizes or supports any claim against the United States; or

(B) serves as a settlement of any claim against the United States.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 60 minutes of debate with respect to the concurrent resolution, with the time equally divided and controlled between the two leaders or their designees.

The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, the clerk read, for the first time ever in this body, what we should have done a long time ago: an apology for slavery and the Jim Crow laws which, for a century after emancipation, deprived millions of Americans their basic human rights, equal justice under law, and equal opportunities. Today, in the Senate, we unanimously make that apology.

First of all, I wish to thank my friend, Senator SAM BROWNBACK, for all his hard work over the last couple years working together to get this finally to this point. I can't thank him enough. He wouldn't give up, and he stuck in there with us all the time, working to make sure that this day would come. I thank him profusely for his help in this effort.

I also wish to publicly thank Congressman STEVE COHEN, on the House side, who is the leader of this resolution that they will pass soon over there.

John Quincy Adams once remarked that:

Our country began its existence by the universal emancipation of man from the thrall-dom of man.

Indeed, America's purpose and enduring ideal can be summed up in one simple, but powerful, sentence:

We hold these truths to be self evident that all men are created equal, endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness.

Yet, as we all know, for too long, many in this country were not free. Many lived in bondage. Many Americans were denied their basic human rights and liberty. From 1619 to 1865, over 4 million Africans and their descendants were enslaved in the United States. Millions were kidnapped from their homeland and suffered unimaginable hardships, including death, during the Middle Passage voyage to

America—a crime against humanity. In Elmina Castle, on the coast of Ghana, a place I recently visited, there is a chillingly named “Door of No Return”—an infamous open portal which, as one looks over the horizon across the Atlantic, makes all too clear the excruciating inhumanity and horror faced by the men and women shackled inside this Castle as they were led through that door and put on the slave ships bound for America; led through that door, enslaved, never to return to their families, their tribe or their native land.

On American soil, these individuals were treated as property. These human beings were denied basic rights, including the right to their own name and heritage; any rights to education; even the right to maintain a family were denied to them. As Chief Justice Taney sadly made all too clear in the infamous Dred Scott case, he said of African Americans—and I quote from his decision—African Americans:

[Were] not included, and were not intended to be included, under the word “citizens” in the Constitution, and [could] therefore claim none of the rights and privileges which that instrument provides for and secures to the citizens of the United States. On the contrary, they were at that time considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the Government might choose to grant them.

That is one of the saddest decisions ever made by the Supreme Court of the United States.

While the Reconstruction amendments—the 13th amendment banning slavery, the 14th amendment granting full citizenship to all Americans, and the 15th amendment guaranteeing the right to vote—espoused the principles of equality for all, widespread oppression continued. Under slavery's harsh replacement, Jim Crow, African Americans were denied voting rights, denied employment opportunities, denied access to public accommodations, denied entry into military service, denied criminal justice protections, denied housing, education, police protection, and due process. In short, they were denied their very humanity. Not until passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and other Federal protections, did legal segregation officially cease in this country.

The destructive effects of both slavery and Jim Crow remain, however. As President Bush noted, “The racial bigotry fed by slavery did not end with slavery or with segregation.” President Clinton likewise stated that the racial divide is “America's constant curse.” Today, many African Americans remain mired in poverty, and average incomes remain below that of White Americans. There remains an achievement gap in education, and for many health conditions, African Americans bear a disproportionate burden of dis-

ease, injury, death, and disability. African Americans are, moreover, disproportionately involved with the criminal justice system.

Recently, States—Alabama, Connecticut, Maryland, Florida, New Jersey, North Carolina, and Virginia—enacted resolutions apologizing for the role their States played in sanctioning and promoting slavery and segregation.

Corporations such as J.P. Morgan, Aetna, and Wachovia have also acknowledged and apologized for their role in, and profit from, slavery.

Slavery, Jim Crow laws, and their lasting consequences, however, are an enduring national shame. It was the United States that enshrined slavery in the Constitution and protected it for nearly a century. It is Congress that passed the shameful laws, such as the Missouri Compromise of 1820 and Fugitive Slave Law of 1850, which protected and furthered slavery. It was our Nation's Supreme Court which bolstered slavery and legally sanctioned segregation, as I said, in the Dred Scott case of 1857, and Plessy v. Ferguson in 1896. The Court said we could be separate but equal. It was the Federal Government which was officially segregated. By 1913, all Federal departments were segregated. It was the United States which kept African Americans who wanted nothing more than to serve their country segregated in the military. It was not until 1948 that President Truman issued the executive order desegregating the military.

Presidents as far back as John Adams have acknowledged the injustice of slavery. In 1998, President Clinton spoke of the evils of slavery and expressed regret for America's role in the slave trade. In 2004, President Bush visited Goree Island, a holding place for captured slaves in Africa, and spoke of the wrongs and injustices of slavery, calling it “one of the great crimes of history.”

Moreover, in 1988, Congress rightly apologized for the internment of Japanese Americans held during World War II. In 1993, Congress justly apologized to native Hawaiians for overthrowing their king. The Senate has correctly apologized for its failure to enact antilynching legislation. Last year, as part of the Indian health bill, the Senate passed an amendment apologizing, rightfully, to Native Americans.

Yet this Congress has never offered a formal apology for slavery and Jim Crow, and it is long past due. A national apology by the representative body of the people is a necessary, collective response to a past collective injustice. It is both appropriate and imperative that Congress fulfill its moral obligations and officially apologize for slavery and Jim Crow laws.

As we acknowledge and apologize for this great injustice, we would be remiss, however, to fail to recognize those Americans who, with great courage, fought to ensure that this country lived up to its founding ideals. Hundreds of thousands served their country

and risked their lives so others could be free, and many gave, in the words of Abraham Lincoln, "the last full measure of their devotion."

From the beginning of the Republic to the present, individuals of all races, nationalities, genders, creeds, and religions have risked much, including their lives, striving for a better and more just America. It is these often nameless individuals who registered voters in the Mississippi Delta, marched over the bridge at Selma, fought for better jobs and housing in northern cities, and desegregated lunch counters.

I point to people such as Edna Griffen, John Bibbs, and Leonard Hudson. In 1948, they entered Katz Drugstore in Des Moines, IA, on a hot summer day and ordered Cokes and ice cream at a segregated lunch counter. When the manager refused to serve them because the store did not "serve coloreds," Ms. Griffen refused to leave, and outraged Iowans responded with sit-ins and picketed Katz and other restaurants that refused to serve people because of their race. And they won. The lunch counters were desegregated. Who but a handful knows of Edna Griffen, John Bibbs, or Leonard Hudson? It is only because of the extraordinary acts of bravery by ordinary Americans like these in all corners of this country that the mighty walls of oppression have been torn down. As this Nation formally apologizes and acknowledges slavery and Jim Crow, we must also recognize that this Nation owes these individuals, most known only to their friends and families, an enormous debt of gratitude.

As we make this formal apology, moreover, we must acknowledge and celebrate the deep, lasting contributions that slaves, former slaves, and their descendants have made to this country in every field of human endeavor—law, literature, science, medicine, art, business, education, sports, and politics. Indeed, the list goes on and on. Six months ago, an African American took the oath of office as President of the United States for the first time in our Nation's history.

In conclusion, I want to read from the resolution, so all those in the gallery and the American people hear the long overdue words emanating from this body:

Congress acknowledges the fundamental injustice, cruelty, brutality, and inhumanity of slavery and Jim Crow law; apologizes to African Americans on behalf of the people of the United States, for the wrongs committed against them and their ancestors who suffered under slavery and Jim Crow law; and expresses its recommitment to the principle that all people are created equal and endowed with inalienable rights to life, liberty and the pursuit of happiness, and calls on all people of the United States to work toward eliminating racial prejudices, injustices and discrimination from our society.

In closing, I think it is important to note that this resolution will soon pass by unanimous consent, which means every Senator supports it without objection.

Finally, let us make no mistake, this resolution will not fix lingering injustices. While we are proud of this resolution and believe it is long overdue, the real work lies ahead. Let us continue to work together to create better opportunities for all Americans. That is truly the best way to address the lasting legacy of slavery and Jim Crow.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

Mr. BROWNBACK. Madam President, first, I start with acknowledging a couple of individuals. First and foremost, the Senator from Iowa, Senator HARKIN, has orchestrated and navigated this matter to bring it forward. I think everybody owes a deep debt of gratitude to him and his staff for getting this done.

This is a significant day and a significant event. It doesn't happen without a lot of effort. It is going to be one of those days and places and times that goes down in history in this body. It is important. It is important to us. It is important to the Nation, and it is important that it be clearly acknowledged, and it is going to get done. I thank my colleague from Iowa for getting this organized and moving it forward. I also thank, obviously, the majority leader for setting this time up, the Republican leader, and our colleagues, particularly Senator LEVIN, who is a sponsor, and on our side, Senator COCHRAN, Senator BOND, and many others.

I ask unanimous consent at this time that Senator CORKER be added as a cosponsor to the resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BROWNBACK. Also, our staffs worked very hard on this. I have to thank LaRoche Young on my staff, who has worked hard on this issue. She has been dedicated to get this through and forward. I thank her for her great work.

It is my experience that apologies are tough to do. They are tough as individuals, tough as groups, and tough as nations. When this issue would come up, a lot of people would say: Yes, I acknowledge that happened, but I didn't do it or that happened a long time ago, so can't we move past it? Yet my experience has been that until you actually acknowledge the wrong that has been done and say, "I did this and it was wrong and I apologize," there remains a barrier there—something you cannot get over, no matter how many words you put around it, no matter how much feeling may be there, until you actually say it. That is why apologies are tough, because they are hard to do when they get right at the core of the issue. They get at the core that a wrong was done. What we are saying in the Senate today is that a wrong was done—a wrong of slavery was done by the Federal Government of the United States, a wrong of segregation was

done by the Federal Government of the United States. We acknowledge that. We say it was wrong and we ask for forgiveness for that.

It doesn't fix everything, as Senator HARKIN pointed out but it does go a long way toward acknowledging it and it gives us the ability to move to the next step in building a more perfect union, and do the things that Martin Luther King would talk about, where you can have a colorblind society. It is significant and important that we do it.

I think in my own personal experiences in this category, learning about William Wilberforce, from the British Parliament, who worked on ending the slave trade in Great Britain. It was a key issue for them to get over that hurdle. It took years and they got it done. I also acknowledge friends of mine, in current iterations, who traveled across America with a kettle. This kettle was a kettle that former slaves used to cook in. They would do the evening cooking for their meals in it. This was kind of the gathering place for the slaves—this gentleman's ancestors' kettle. He took it around the country and he would talk about them getting together and using it for a meal. After the meal was done, they would clean the kettle, and it was big enough that they would actually huddle under the kettle and pray. They would pray for their freedom. That was the kettle tour. Their aspiration and hope for so many years was to be free. They were taking the kettle around the country as a physical symbol of the yearning for freedom that the people had. The slaveowners would get mad about it, but they could not hear them as they would mutter their silent and soft prayers under the kettle. I have seen many different physical representations of what has taken place.

I grew up in eastern Kansas, where the fight started about whether my State would be a free State or a slave State. In the Nebraska-Kansas compromise that this body crafted, Nebraska was supposed to be a free State and Kansas a slave State because Iowans would come across to Nebraska and populate that. Missourians were closer to Kansas and they would populate Kansas and be a slave State and maintain that balance of power. That is also something we should apologize for. John Quincy Adams called slavery the "original sin of the United States," for which we are asking forgiveness today. And in that situation developed my part of eastern Kansas—known as Bleeding Kansas because while people did come across who were proslavery, other individuals organized from the Northeast to populate Kansas, and they were abolitionists and they came with a desire to fight for freedom. There were many irregular battles that took place, guerilla warfare, the Battle of Osawatomie, where my mother grew up, the burning and sacking of Lawrence, and all this back and forth about slavery taking place.

Just before the Battle of Osawatomie, John Brown said—and he was in that fight, and one of his sons was killed in it—there will not be peace in this land until the issue of slavery is resolved. He was right. Less than 10 years later, the Civil War broke out over the issue of slavery.

Today in the Senate, we pledge to move beyond this shameful period, and we officially acknowledge and apologize for the institution of slavery in this country—what many refer to as the original sin of America—which was once woven into the fabric of our Nation, and for the Federal laws we passed in this Chamber and upheld by the highest Court in our land, the Supreme Court. My colleague has already referred to some of those laws, but I want to refer passingly to several as well, laws such as the Fugitive Slave Law, first approved on February 12, 1793, and subsequently amended in 1850 and 1864, which sought to punish those persons who dared to escape the brutality of slavery and those who helped to free individuals in bondage. Not only would a suspected runaway slave be dragged into court, but they would be unable to say a word on his or her behalf, not one word. They weren't allowed to say a single word.

My colleague mentioned the Missouri Compromise of 1820, which was crafted as a solution to the ever-increasing and volatile dispute over the question of slavery in the United States. In 1819, when Missouri sought statehood, the question was whether Missouri would be admitted to the Union as a slave State or a free State. This set off an intense debate between northern and southern legislators. Missouri's ratification would upset this delicate balance between slave States and free States in the Senate.

In order to keep the already tenuous balance, Henry Clay worked out a compromise consisting of three parts: Maine would separate from Massachusetts and be admitted as a free State, Missouri would enter the Union as a slave State, and the remaining territories of the Louisiana Purchase would be closed off to slavery.

However, unrest around the brutal practice of slavery continued until further compromises came forward. Additionally, a compromise to outlaw the slave trade, but not slavery, in the District of Columbia—where we are today—was enacted to facilitate the retrieval of slaves who had run away to the North. While this compromise did little to satisfy the antislavery movement, it did temporarily preserve the Union, and many historians refer to this period as the “calm before the storm.” And then my State enters—Bleeding Kansas.

As the United States continued to expand, the very fabric of our Nation was about to be torn in two regarding a people's right to be free. In the midst of this debate was my great State of Kansas.

On May 30, 1854, the Kansas-Nebraska Act became law. Frederick Douglass

deemed the new law “an open invitation to a fierce and bitter strife,” and those words proved to be very prophetic. Shortly after the Kansas-Nebraska Act became law, there was a rush to settle Kansas. As I mentioned, both proslavery and abolitionists alike were determined to settle Kansas for their cause. The turmoil continued. We had bloody balloting, we had stolen elections taking place, until we did finally enter the Union as a free State.

There were passions surrounding that which ignited even on the Senate floor, passions that abolitionist Senator Charles Sumner delivered a rousing speech on the Senate floor called “The Crime Against Kansas,” accusing proslavery Senators of siding with slavery. In apparent retaliation, Congressman Preston S. Brooks attacked and beat Charles Sumner senseless with a cane—an issue of some high memory on this floor even today.

Following on June 2, 1856, there was retaliation. The Battle of Black Jack, in my State, ensued, which is widely believed to be the first conflict between free State supporters led by John Brown and the proslavery supporters, as well as one of the first battles of the Civil War.

These things continued until my State came into the Union.

I do wish to conclude at this point in time with noting just the importance of apologies. As I mentioned at the outset, they are difficult and they are important and they are hard to do and they are significant. Today, we right that wrong of not offering an apology previously. Today, we move forward in a spirit of unity. Today, we move toward a true cleansing of our Nation's past sins rooted in racism.

There may be those who consider an apology insignificant or purely for symbolic means. I completely disagree. In 1988, Congress apologized for the internment of Japanese Americans held during World War II. When asked in an interview 20 years after the apology was signed to give thoughts on the matter, Aiko Yamamoto, who at the time of the interview was 72, said: “It was the apology that mattered.” Similarly, Norman Mineta, former Congressman and U.S. Secretary of Commerce and of Transportation, who was also interned during World War II, said of the apology: “It will always mean more to me than I can ever adequately express.”

However, the cleansing effects of an apology are not only limited to those who are owed an apology but to those giving the apology as well. It is the acknowledgment that a terrible wrong was committed—never to be committed again—and a willingness to now, through the process of reconciliation, work toward a brighter future for all people unburdened by the difficulties of the past but uplifted by the promises of the future—a future where our destinies are inextricably linked together.

Although this anthem is correctly titled “The Negro National Anthem,”

the final stanza of its words so eloquently written by James Weldon Johnson not only rings true for the African-American community but for all America.

God of our weary years, God of our silent tears, thou who hast brought us thus far on the way; thou who hast by thy might, led us into the light, keep us forever in the path, we pray. Lest our feet stray from the places, our God where we meet thee, lest our hearts, drunk with the wine of the world, we forget thee; shadowed beneath thy hand may we forever stand, true to our God, true to our native land.

May we, with this apology, move forward into the light of unity, united under a common purpose, linked together in a singular humanity. I am delighted that we are doing this today.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Madam President, first, at this point, I wish to thank Senators HARKIN and BROWBACK for the initiative they have taken, for their leadership in bringing before the Senate this healing resolution, this formal apology for slavery and racial segregation.

The resolution before us presents us with the opportunity to address face-to-face the unconscionable and the abhorrent acts of slavery and its aftermath perpetrated against fellow human beings. The apology resolution describes some of the gravest injustices of slavery: families enslaved, then torn further apart after family members were sold separately, stripped of their names and heritage; a system of forced labor that persisted for 250 years; brutal and unspeakable acts of violence against slaves. The injustices continued well after the 13th amendment to the Constitution ended slavery in our Nation because Jim Crow laws disenfranchised former slaves and subjugated them as second-class citizens.

After presenting detailed findings regarding slavery and the system of de jure segregation known as Jim Crow, the resolution reads, in part, that the Senate:

Acknowledges the fundamental injustice, cruelty, brutality, and inhumanity of slavery and Jim Crow laws; Apologizes to African Americans on behalf of the people of the United States for the wrongs committed against them and their ancestors who suffered under slavery and Jim Crow laws; and, Expresses its recommitment to the principle that all people are created equal and endowed with inalienable rights to life, liberty and the pursuit of happiness, and calls on all people of the United States to work toward eliminating racial prejudices, injustices and discrimination from our society.

In 2005, the Senate passed a resolution formally apologizing for another tragic legacy of historic racial inequalities in our Nation: lynching. From 1880 to as recently as the 1960s, an estimated 5,000 Americans, predominantly African Americans, were killed by public hangings, burnings, and mutilation. Members of the Armed Forces were lynched in the country they had defended. Following both World War I and World War II, returning soldiers

were lynched, many while still wearing their military uniforms. There would be no new respect for these brave African Americans who had fought for our country, only the old order of injustice.

The Senate passed the resolution apologizing for lynching in an attempt to acknowledge the Senate's past failure to address the prevalence of those despicable acts and to allow for some national healing. It is my hope that the slavery apology resolution before us can serve a similar purpose.

We are fortunate to live in a time that is not blighted by slavery in this country or segregation under the law. But we live with the legacy of the practice of slavery, and it is our responsibility and our duty to continue to examine that history in order to improve the present and the future.

This apology is part of carrying out that responsibility. And doing so in the presence of visitors who are descendants of slaves adds to the meaning of our action.

Madam President, I again thank the cosponsors of the resolution.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. BURRIS. Madam President, more than 200 years ago at the height of a humid summer in Philadelphia, 56 men affixed their signatures to a document that contained these words:

We hold these truths to be self-evident, that all men are created equal.

These words expressed a sentiment that could not be realized for all Americans until more than a century later. At that moment, when the United States of America was born and the Declaration signed, a great injustice was woven into the fabric of our Nation. Slavery and the racial segregation that followed have left a tragic legacy that divided this country in the bloodiest war we have yet known. It is a legacy that still affects each and every one of us this day.

My colleagues, Senators HARKIN and BROWNBAC, have introduced a resolution apologizing for slavery, Jim Crow laws, and policies of segregation and hate. This is often an uncomfortable subject so I applaud my colleagues for their willingness to confront the difficult history we all share. I thank them for their leadership on the issue and rise in support of the resolution which just passed.

Several State governments have issued similar apologies. But the fact that the plight of slavery was a national concern demands a national response.

Some in the Black community will dismiss this resolution. Some will say that words don't matter, that the actions of our forefathers cannot be undone. It is true that those who toiled in the fields, those who were deprived of their freedom, will gain no peace from this resolution. Their story is inescapably in our history. It is a story we must confront and try to overcome on a daily basis. But words do matter; they matter a great deal—the words in

the Declaration of Independence acknowledging the equality of all men, even if the flawed policies of the time failed to embrace it; the words of a President who held the Union together and promised “a new birth of freedom,” even if his words required the forces of an army to achieve liberty for all; the words of a Supreme Court opinion which declared “separate but equal” was not justice, even if the Nation was not quite ready to listen; the words of a King who dared to dream of a promised land, even if he knew he might not live long enough to see it; the words of a troubled nation searching for hope in time of fear, which seized upon the rallying cry of a young Black man from Illinois whose words inspired a people to cry “yes, we can” with one voice—all of these words reinforced the fundamental truth we have uttered to ourselves and our children since the birth of this Nation: In America, anything is possible.

As I look around this Senate floor today, I think of my parents who never saw this Chamber. I think of my grandparents who never saw this city. I think of my ancestors who could dream only of their freedom. I think of my great-great-grandfather who was given that freedom. Freed from bondage as a slave in 1865, near Columbus, GA, without a name of his own, he adopted the Army rank as his first name, Major, and he adopted the name of his county, Green, as his last name. He named himself Major Green. In a span of those few generations, I stand here in the Senate Chamber as the great-great-grandson of Major Green on that uniquely American arc of history that has taken my family from slavery to the Senate.

As a nation, we have come a long way. But we cannot turn our backs on the shame of slavery, just as we cannot turn our backs on the rest of the Constitution that at one time embraced it. The greatness of this Nation comes from our ability to chart a new course, to shape and reshape the destiny that we share, choosing to reject injustice and cruelty, choosing to overcome the tragic legacy of past mistakes and look ahead to a bright future. This resolution cannot erase the terrible legacy, but it can help to heal the wounds of centuries gone by. It can pave the way for future progress.

This journey, however, is far from over. We have not yet reached the equality promised in our founding documents—equality that transcends race, gender, sexual orientation, and religion, equality upon which our ever-perfecting Union is founded. This story is still being written. As we confront the enduring legacy of slavery and Jim Crow, this resolution is an important part of moving forward.

I would like the RECORD to show that this resolution has a different ending from a resolution passed by the 110th Congress. This resolution carries a disclaimer. I want to go on record making sure that that disclaimer in no way would eliminate future actions that

may be brought before this body that may deal with reparations.

I thank Senator HARKIN and Senator BROWNBAC for their leadership on this issue. I urge my colleagues to join us as we seek to write the next chapter in our history, to move forward, not only saying we apologize for slavery but moving forward to make sure all remnants of discrimination of any kind are removed from this great Nation of ours.

Mr. DURBIN. Madam President, 4 years ago the Senate took an important step in recognizing and apologizing for Congress's historic failure to pass an antilynching law. Today, we are considering a resolution to apologize for America's original sin—the sin of slavery.

By apologizing for the enslavement and racial segregation of African Americans, we take another important step toward racial healing and reconciliation. This measure follows similar apologies issued by the States of Alabama, Florida, Maryland, North Carolina, and Virginia, which have all recognized their role in sanctioning the evils of slavery and Jim Crow. While we cannot correct the brutality and dehumanization caused by these evils, we can acknowledge the vestiges of harm caused by that dark chapter in our history. We can accept responsibility.

I am proud that when my home State of Illinois entered the Union in 1818, the Illinois State Constitution contained the following provision: “Neither slavery nor involuntary servitude shall hereafter be introduced into this state otherwise than for the punishment of crimes.”

Soon after the granting of statehood, proponents of slavery in Illinois moved for a constitutional convention to amend the Illinois Constitution to allow slavery. The citizens of Illinois went to the polls in 1824 and voted against the convention by a margin of 57 percent to 43 percent and chose to keep Illinois a free State.

A few years later, in 1856, a little known former Congressman from Springfield, IL, named Abraham Lincoln delivered a speech in Bloomington, IL, and said: “Those who deny freedom to others deserve it not themselves, and under the rule of a just God cannot long retain it.”

But it took a Civil War, and the death of over 600,000 Americans, before slavery was finally abolished in this Nation.

Another American hero who put his life on the line for civil rights is JOHN LEWIS, who was nearly beaten to death while marching for the right to vote in Selma, AL, during the 1960s. Today he is a member of Congress. Last year, after the U.S. House of Representatives passed a resolution apologizing for slavery, JOHN LEWIS said the following:

The systematic dehumanization of African Americans for hundreds of years was a horrible crime, and the legacy of these atrocities still lingers with us today. For centuries, African Americans were denied

wages, decent housing, food, clothing, and all the basic necessities of life. They were disenfranchised in the Constitution, barred from voting, from gaining an education, and any protection or right a citizen should expect in a civilized society. Our culture was destroyed, our lives were always in jeopardy, and our very humanity was in question. Any nation which perpetrates these kinds of atrocities on any of its citizens should at least apologize for its actions. And an apology is a very important step toward laying down the legacy of this tragedy once and for all.

I commend Senator HARKIN and Senator BROWNBACK for introducing this important resolution in the Senate, and I urge its immediate passage.

Mr. CARDIN. Madam President, I rise today in strong support for S. Con. Res. 26, apologizing for the enslavement and racial segregation of African Americans. I thank Senators HARKIN and BROWNBACK for introducing this resolution and note that the Senate's approval of this resolution will occur on the eve of Juneteenth. Also known as Freedom or Emancipation Day, Juneteenth commemorates the announcement of the abolition of slavery in Texas and marks the day when Union troops started to enforce the Emancipation Proclamation throughout the United States.

In 2007, Maryland became the second State after Virginia to adopt a resolution officially expressing profound regret for its role in instituting and maintaining slavery and for the insidious discrimination that followed, which became slavery's legacy. I am proud that my home State's elected officials publicly acknowledged and showed remorse for its part in that sad and enduring chapter in our Nation's history. And now we have an opportunity to do the same as an entire country.

From 1700 to 1770, thousands of West Africans who survived the middle passage slave trade route ended up in the Chesapeake Bay region. Annapolis, our capital, was the main port of entry for slaves in the mid-Atlantic region. Millions of Africans were forcibly uprooted from their families in their native lands and shipped across the Atlantic in chains. Most died. Only one in four African-born slaves survived his or her first year in the Chesapeake area. By 1790, more than 100,000 slaves, a third of the State's total population, lived in Maryland.

True patriots with Maryland roots fought to end the institution of slavery, and they merit our gratitude and honor. Frederick Douglass, born into slavery in 1818 on Maryland's Eastern Shore, escaped in 1836 and became a free man in Massachusetts. Upon gaining his freedom he made it his life's work to advocate for the abolition of slavery and for racial equality. Harriet Ross Tubman spent nearly 30 years as slave in Maryland's Dorchester County, also on the Eastern Shore. She escaped in 1849, and returned many times over the next decade to Dorchester and Caroline counties to lead hundreds of

slaves north to freedom. Known as "Moses" by abolitionists, she reportedly never lost a "passenger" on the Underground Railroad.

The abolitionists eventually succeeded, but only after a monumental struggle that culminated in the Civil War and the executive orders President Abraham Lincoln issued which comprised the Emancipation Proclamation. In 1864, with the adoption of a new State Constitution, slavery officially ended in Maryland. A year later, in 1865, the 13th Amendment to the United States Constitution was ratified, officially abolishing slavery throughout the United States. Yet following Reconstruction, the period in which newly freed men and women made significant social, economic and political gains, a new era of "Jim Crow," the pernicious system of de jure racial segregation, dawned.

Maryland was among the border and southern States that perpetuated segregation, passing 15 Jim Crow laws between 1870 and 1957. It was during these years that numerous organizations were founded to be catalysts for change. One such organization, the National Association for the Advancement of Colored People—NAACP—was founded on February 12, 1909, in response to the horrific practice of lynching. I am a lifetime member of the NAACP and am proud that its tradition continues to this day, and that my city of Baltimore is home to its national headquarters.

Maryland might be considered a microcosm of the Nation as a whole. While Maryland instituted and perpetuated the institutions of slavery and "Jim Crow," there arose some truly inspiring heroes who courageously fought against the system and succeeded. Baltimore's own Thurgood Marshall, for instance, developed into one of the most influential and inspiring legal minds of the 20th Century. He was a true leader of the civil rights revolution in the 1950s and 1960s, working through the courts to eradicate the legacy of slavery and destroy the racist segregation system of Jim Crow. And he succeeded. He won multiple Supreme Court rulings, including the landmark *Brown v. the Board of Education of Topeka* case, effectively ending legal segregation in schooling, housing, public transportation, and voting. He went on to become the Nation's first African-American Supreme Court Justice.

We have made substantial progress but it has been shamefully slow. As Dr. Martin Luther King, Jr., remarked, "Change does not roll in on the wheels of inevitability, but comes through continuous struggle." At long last, we have elected an African-American President. We still have more to do. The harmful legacies of slavery and "Jim Crow" persist in America today, with glaring racial disparities in our criminal justice system, health care, home-ownership rates, and wealth. We need to do more as a Nation to con-

front and eliminate these gaps. And although we have truly come a long way since those days, America must acknowledge the atrocities of our past, so that we can fulfill the ideals on which our nation was founded. This resolution is that acknowledgement.

Mr. KOHL. Madam President, Harriet Ann Jacobs, a writer, abolitionist, and former slave wrote, "No pen can give an adequate description of the all-pervading corruption produced by slavery." Just as no pen can describe how horrible the effects of slavery are, no words will be able to express adequately our apology. But it is long past time we tried the impossible task of apologizing for this terrible period in our history.

Slavery was a deeply shameful period in our history, and the effects on our country and our people can still be seen today. African Americans still suffer from the years of slavery and institutional racism of the Jim Crow years. This resolution will not erase the damage of those years, but it is a necessary step if we are ever to heal the wounds that remain.

The early growth of our country—including the building of this very Capitol Building—would have been impossible without the labor and skills of African-American slaves. Our success as a nation was built on their backs, and at an awful price. Today, finally, with the passage of S. Con. Res. 26, we recognize their sacrifice and apologize for what they suffered.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HARKIN. Madam President, I know other speakers are coming down to speak on this resolution. Before the time runs out and since no one is here right now to speak, I wish to acknowledge several people who have been very instrumental in getting us to this point.

First, I thank the Leadership Conference on Civil Rights for all they have done to not only bring us to this point—to this apology—but for all they have done to enhance and promote civil rights for Americans. I also recognize the longtime president, Wade Henderson, who has devoted his entire life to the cause of racial injustice and ensuring this Nation lives up to its founding ideals.

Second, I acknowledge and thank the NAACP. February marked the end of the NAACP's 100th birthday, founded on the 100th birthday of Abraham Lincoln by a multiracial group of men and women committed to equality. For 100 years, the NAACP has fought for justice for all Americans, and I thank

their president, Benjamin Todd Jealous, and through him all the members of the NAACP.

Third, I wish to acknowledge several staff members whose assistance made this resolution possible. Senator BROWNBACK already recognized LaRochelle Young, but I also thank her for helping to shepherd this through and working to get us to this point. Jackie Parker, a senior adviser to Senator LEVIN and cofounder of the Senate Black Legislative Staff Caucus, has been instrumental in planning the upcoming ceremony with civil rights leaders and other luminaries to recognize the apology and injustices of slavery and Jim Crow.

Finally, I would like to recognize the tireless work that my counsel, Daniel Goldberg, has dedicated to seeing this historic resolution become a reality. The countless hours he has committed to make this occasion happen are almost uncountable. I thank him publicly for making this possible.

Last, I would like to add Senators LEAHY, DODD, MURRAY, and KERRY as cosponsors of the resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Kansas is recognized.

Mr. BROWNBACK. Madam President, I, too, wish to acknowledge some individuals who have really helped to make this historic day take place. One for me is Congressman JOHN LEWIS, with whom I have been working for some period of time to get the Museum of African American History and Culture to be a reality on The Mall. The design has now been picked and the location has been picked. It is going to be at the base area of the Washington Monument. It is going to be a fabulous entity. What I like about it is it is going to show the difficulty, the tragedy, and is also going to show the promise in the future. It moves through the whole piece of it, and this resolution will be a part of it, of how a nation deals with such an enormous problem as this.

JOHN has been a very courageous, longstanding advocate in the mode of what John Quincy Adams was for years in fighting against slavery. He has been dedicated to this. I remember first going over to his office and him showing me a book of pictures that were of lynchings that had taken place, such a tragic set of pictures that you look at that happened in the early part of the 1900s in my State and many other States around the country. I am very appreciative of him.

There are people who recently passed away, like Rosa Parks, who gave us these defining moments of the ending of segregation or in my State, like Cheryl Brown Henderson of the Brown family, Brown v. Board of Education, the landmark desegregation case where we said even if a school is equal, segregation is inherently wrong, and they stood for it, and stood tall, to bring us to a better point in time.

It has not been all that long ago. I started out in a professional period in broadcasting. One of the guys next to me was a sports broadcaster, and he would tell the story about—and this is even in the Big 8, where Senator HARKIN and I shared some territory—he talked about African Americans coming on the basketball court, being cheered wildly by everybody at the school but then not able to eat at the lunch counter in the community. While everybody is cheering for them on the basketball court, they cannot eat at the lunch counter. The sportscaster was talking to me about that.

My old friend Jack Kemp, who recently passed away, was a strong advocate for African Americans and for doing things like this—what he saw in the sports field, for years, people in the Negro Baseball League Hall of Fame in Kansas City. We have a wonderful museum showing what it took to break through the racial barriers in sports and how positive that was but also how difficult that was during that period of time.

All of these I am mentioning simply because it is part of how difficult it is to get to the point we get to today as a society. These things do take time, they are difficult, and there is a lot of pain and suffering that goes along the way.

What Senator HARKIN and I and all the cosponsors hope—it will be unanimously approved on this Senate floor—is that for all those individuals who have had these personal experiences themselves and felt it themselves, they will be able to see in this some acknowledgment of what happened to them, an acknowledgment that it was wrong and an apology for it. It doesn't fix it, but hopefully it does address it and starts to dig out the wound. There is a great book on this, "Healing America's Wounds." The last name of the author is Dawson. He pointed out that these are very significant for society to be able to pull together around and that they have to be done for a society to be able to move forward. There is just no way around it, you have to actually address the problem and the topic.

For those reasons and for the many millions of people who have suffered the legacies of slavery and segregation or suffered personally themselves under segregation in this country, we apologize as a United States Senate.

I read the final words because they express it so well, that there is a sense of Congress of the following:

Apology for the enslavement and segregation of African-Americans—The Congress—acknowledges the fundamental injustice, cruelty, brutality, and inhumanity of slavery and Jim Crow laws;

apologizes to African-Americans on behalf of the people of the United States, for the wrongs committed against them and their ancestors who suffered under slavery and Jim Crow laws; and . . .

Nothing in this resolution: authorizes or supports any claim against the United States; or

serves as a settlement of any claim against the United States

expresses its commitment to the principle that all people are created equal and endowed with inalienable rights to life, liberty, and the pursuit of happiness, and calls on all people of the United States to work toward eliminating racial prejudices, injustices, and discrimination from our society.

It specifically does the apology but deals with nothing else. It says, "Nothing in this resolution authorizes or supports any claim against the United States; or serves as a settlement of any claim against the United States," to leave that issue aside.

I am very appreciative that a number of States have led the way moving forward with the apology. Virginia, Alabama, Florida, Maryland, North Carolina led in adopting resolutions officially expressing that remorse for slavery and for Jim Crow laws.

I look forward to this unanimous consent. I am glad we are doing it now. We will have a recognition of this in a Rotunda ceremony. I think that will be important. I hope many Members will join us at that, and I think it will be a historic point in time.

Madam President, I believe we are ready to call for the passage of the resolution? I yield to the Senator from Iowa.

Mr. HARKIN. If the Senator will just yield, I thank my friend for his wonderful statement this morning and, again, for the many months and years we have worked together on this to get here, I thank him very much.

In closing, Madam President, again I say a fitting ceremony is being planned for sometime early in July that will take place in the main Rotunda of the Capitol to mark this occasion. As I understand, we don't have a firm date yet, but that date will be coming about shortly in consultation with the Speaker and the minority leader in the House and the majority leader and minority leader here in the Senate. We are looking forward to that occasion, and I think it is one that will be poignant and one that will again bring home to all of us and to the American people the enormity of what we have done in terms of finally acknowledging the official role of the U.S. Government in promoting and sanctioning slavery and Jim Crow laws.

I say to my friend from Kansas, we look forward to that ceremony, and I am sure the American people are looking forward to it also.

I might ask, how much time remains?

The ACTING PRESIDENT pro tempore. On the majority side, almost 8 minutes, and on the Republican side, just over 9 minutes.

Mr. HARKIN. Madam President, I ask unanimous consent that Senators MENENDEZ, FEINGOLD, and BENNET be added as cosponsors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HARKIN. Madam President, on behalf of the majority leader, I yield the remainder of our time.

Mr. BROWNBACK. On behalf of the Republicans, I yield the remainder of our time.

The ACTING PRESIDENT pro tempore. The question is on the adoption of the resolution.

The concurrent resolution (S. Cons. Res. 26) was agreed to.

The preamble was agreed to.

MORNING BUSINESS

Mr. HARKIN. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Texas is recognized.

NOMINATION OF JUDGE SOTOMAYOR

Mr. CORNYN. Madam President, I would like to turn to another important topic; that is, the pending confirmation of Judge Sotomayor to be Associate Justice of the U.S. Supreme Court. Like many Senators, I have had the opportunity to visit with Judge Sotomayor in my office and, of course, congratulated her on this great honor. I further pledged to her that she would receive a fair and dignified confirmation proceeding. Unfortunately, that has not always been the case in the Senate, but I did tell her that as far as I was concerned, I would do everything I could to make sure she was treated with respect.

Over the last few weeks, my colleagues on the Judiciary Committee and I have begun a thorough review of her record. Judge Sotomayor comes with one of the longest tenures of any judge nominated to the U.S. Supreme Court on the Federal bench—for about 17 years, so there is a rather lengthy record to review. In addition, she has given, as you might expect, many speeches and written law review articles and made other statements that deserve our attention. She has responded to the questionnaire sent by the Senate Judiciary Committee, and there are other followup questions which I anticipate she will be answering in the coming weeks.

So our review is ongoing in anticipation of a confirmation hearing beginning July 13 in the Senate Judiciary Committee.

But so far it is fair to say that there are a number of issues that have come up which I would like to talk about briefly that I anticipate she will have an opportunity to clarify or otherwise respond to and make her position clear for the American people and for the Senate as we perform our constitutional obligation under article II, section 2 of the Constitution.

Most of the focus, during a judicial confirmation hearing, is on the President's authority under the Constitu-

tion to nominate individuals to serve as judges. But, in fact, the very same provision of the Constitution, the very same section of the Constitution, section 2 of article II, also imposes an obligation on the Senate. In other words, we have a constitutional duty ourselves in the Senate to provide advice and consent and then to vote on the nomination once voted out of the committee.

The concerns I wish to raise at this point do not suggest that these are disqualifying, by any means, for Judge Sotomayor. I believe that, as I have indicated, she deserves the opportunity to explain her approach to these issues and particularly her judicial philosophy more clearly and to put the opinions and statements we have come across during our review in proper context.

I believe it is not appropriate for any of us to prejudge or to preconfirm Judge Sotomayor. Our job as Senators is to ask how she would approach the duties of an Associate Justice of the United States Supreme Court. And the areas, as I said, I would like to focus on are numbered three.

The first issue has to do with her approach to the second amendment. Of course, the second amendment to the U.S. Constitution, part of our Bill of Rights, incorporates the right to keep and bear arms.

The second amendment says:

A well regulated militia being necessary to the security of a free State, the right of the People to keep and bear arms shall not be infringed.

The American people understand that the second amendment limits government and protects individual liberty. As Justice Joseph Story wrote nearly 200 years ago, the second amendment acts as a "strong moral check against the usurpation and arbitrary power of rulers."

As the U.S. Supreme Court itself held last year in the *District of Columbia v. Heller*: "There seems to us no doubt, on the basis of both text and history, that the Second Amendment conferred an individual right to keep and bear arms."

I agree strongly with the Supreme Court's reasoning in the *Heller* decision, and I think most Americans accept that as the law of the land. Judge Sotomayor, on the other hand, as a member of the Second Circuit Court of Appeals, was one of the judges that first was given an opportunity to apply that Supreme Court precedent in *Heller* to the States.

She concluded in that decision that the right to keep and bear arms was not a fundamental right, and, therefore, was not enforceable against the States via the due process clause of the Fourteenth Amendment. Her decision in that case was troubling in light of the *Heller* decision, especially because her opinion included very little significant legal analysis.

I would expect and hope Judge Sotomayor would elaborate on her

thinking about this case, as well as the scope of the second amendment, during the course of the confirmation hearings. Americans need to know whether we can count on Judge Sotomayor to uphold all of the Bill of Rights, including the second amendment.

The next subject that I think will bear some discussion during the confirmation hearings is Judge Sotomayor's views of private property rights, another fundamental right protected by our Bill of Rights, that is simply stated in the fifth amendment of the U.S. Constitution, the right not to have property taken for public use without just compensation.

The fifth amendment provides an absolute guarantee of liberty against the power of eminent domain, by permitting government to seize private property only for public use.

Our colleagues will recall the controversial decision of the U.S. Supreme Court in 2005 in *Kelo v. City of New London*, a decision where the Supreme Court greatly broadened the definition of public use and, thereby doing, greatly limited the property rights protected by the Bill of Rights for more than two centuries.

The Court held that government can take property from one person and give it to another person if the government decided that by so doing it would promote economic development. The *Kelo* decision represents a vast expansion of government power of eminent domain. And that is why I introduced legislation that same year to limit that power and to restore the basic protections of our homes, small businesses, and other private property rights that the Founders intended in the fifth amendment to the Constitution.

I believe the *Kelo* decision went too far. Yet by her decision in the case of *Didden v. Village of Port Chester*, it appears Judge Sotomayor did not feel like it went far enough. Judge Sotomayor was part of a panel that upheld an even more egregious overreach by government when it came to private property rights.

In that case, two private property owners wanted to build a pharmacy on their land but in an area the government had essentially handed over to another private developer. The developer offered the owners a choice: Give me a piece of the action or we will proceed to condemn your property. The property owners, as you would think would be their right, refused. Yet the government, the local government, delivered on the developer's threat the very next day.

I believe this decision represents an outrageous abuse of the power of eminent domain for a nonpublic purpose and a tremendous extension of an already flawed decision in the *Kelo* case by the U.S. Supreme Court. So I think it is only fair and right that we ask Judge Sotomayor how she can square that decision in the *Didden* case with the plain meaning of the fifth amendment to the Constitution and, indeed, even the *Kelo* case itself.